APPENDIX A

VIRGINIA:

IN THE SUPREME COURT OF VIRGINIA
HELD AT THE SUPREME COURT BUILDING
IN THE CITY OF RICHMOND on
Wednesday 13th September, 2000.

Record No. 001048
Circuit Court No. 95CL010

LOCAL LODGE 2552, ETC., *et al.*,
Appellants,

against

FREDERICK A. PUSEY,
Appellee.

From the Circuit Court of Accomack County

Upon review of the record in this case and consideration of the argument submitted in support of and in opposition to the granting of an appeal, the Court is of opinion there is no reversible error in the judgment complained of. Accordingly, the Court refuses the petition for appeal.

A Copy,

Teste:

DAVID B. BEACH, Clerk

By: /s/ Illegible,
Deputy Clerk

VIRGINIA:

IN THE SUPREME COURT OF VIRGINIA
HELD AT THE SUPREME COURT BUILDING
IN THE CITY OF RICHMOND on
Wednesday 13th September, 2000.

Record No. 001081
Circuit Court No. 95CL010

H & H CONSOLIDATED, INC.,
Appellant,

Against

FREDERICK A. POSEY,
Appellee.

From the Circuit Court of Accomack County

Upon review of the record in this case and consideration of the argument submitted in support of the granting of an appeal, the Court is of opinion there is no reversible error in the judgment complained of. Accordingly, the Court refuses the petition for appeal.

A Copy,

Teste:

DAVID B. BEACH, Clerk

By: /s/ Illegible,
Deputy Clerk

APPENDIX B

VIRGINIA:

IN THE CIRCUIT COURT
FOR THE COUNTY OF ACCOMACK

AT LAW NO. 95CL010

FREDERICK A. PUSEY,
Plaintiff,

vs.

H & H CONSOLIDATED, INC., *et als.*,
Defendants.

OPINION

In this action at law for wrongful discharge of an employee, the Court must decide on motion for summary judgment whether it has jurisdiction to hear the matter. Specifically, the question is whether certain real property of the United States held by the National Aeronautics and Space Administration located at its flight facility on the mainland at Wallops Island, Virginia, is a Federal enclave where there would be exclusive Federal jurisdiction, or whether there is concurrent Federal and State jurisdiction at the facility, such that Virginia's Right-to-Work Laws would apply.

The plaintiff, Frederick A. Pusey, was employed by one of the defendants, H & H Consolidated, Inc., a private contractor with NASA at its Wallops Island, Virginia, flight facility. The defendant, Local Lodge 2552, and the defendant, District Lodge 74, both of the International Association of Machinists and Aerospace Workers, are the collective bargaining agents

for employees of H & H at the flight facility. Pusey was never a member of the union, though as an employee he was among those represented by the union. By the terms of a collective bargaining agreement between the union and H & H, all employees of H & H were required to be members of the union and pay dues, or if not members, pay an amount equivalent to dues.

The Right-to-Work Laws of Virginia, pursuant to Va. Code Ann. §40.1-58.1, *et seq* (1994 Repl. Vol.), provide generally that persons within the jurisdiction of the Commonwealth are not required as a condition of employment to either join a union or pay an amount equivalent to union dues. They may seek damages for an abridgement of the right to work. Nevertheless, for his failure to join the union representing H & H or pay an amount equivalent to dues, Pusey was discharged. Defendants' initial defense is that the Right-to-Work Laws of Virginia do not apply because the NASA facility is governed under exclusive Federal jurisdiction.

This lawsuit was commenced by a typical motion for judgment. Initially, defendants sought to remove the case to the United States District Court, which plaintiff resisted. Applying the law of removal of State-initiated actions to Federal Courts, the District Court remanded the case to this Court. The District Court did not decide the issue of jurisdiction for purposes of this case. The District Court stated "[i]t remains unclear whether the United States acted in accordance with the statutory authority to assume exclusive jurisdiction over the (NASA) facility. . . (and) there exists an additional question as to whether exclusive jurisdiction over Wallops Island (sic) reverted to Virginia. . . ." *Pusey v. H & H Consolidated, Inc.*, U.S.Dist. (E.D. Va.) (No. 2:95cv134, April 25, 1995).

The defendants filed their answers and affirmative defenses, among which is the defense that this cause of action arose at Wallops Island, Virginia, at the NASA flight facility,

a Federal enclave of exclusive jurisdiction, excluding the jurisdiction of this Court, and thus the effect of the Right-to-Work Laws of the Commonwealth of Virginia.

Plaintiff has filed his motion (revised) for partial summary judgment, requesting the Court to decide the issue of jurisdiction. All parties, recognizing this as a preliminary issue that would be dispositive of the matter, have agreed upon "Joint Stipulated Exhibits" filed with the Court as a basis for the Court's findings of facts and conclusions of law. Defendants also move for summary judgment in their favor on the issue of jurisdiction.

Apparently, all parties agree that if there is concurrent Federal and State jurisdiction, the Right-to-Work Laws of Virginia may apply, and if there is exclusive Federal jurisdiction, they do not apply.

The facts in this case on the issue of jurisdiction are quite interesting, but the evidence upon which they are based is not uncomplicated. The Court has reviewed the agreed joint stipulated exhibits and finds the facts that follow in this opinion.

The Federal Government can acquire exclusive jurisdiction over its proprietary property if the Federal and State Governments agree. *Paul v. United States*, 371 U.S. 245, 9 L. Ed 2d 292 (1963). The General Assembly of Virginia, 1940 Va. Acts, Chapter 14, ceded to the United States exclusive jurisdiction over such lands as were to be acquired for use as auxiliary airfields in connection with the development of the Hampton Roads Naval Air Station, provided that exclusive jurisdiction would continue "no longer than" such lands "shall be used and occupied by the United States for naval purposes." The head of any agency of the United States Government need not but may accept a cession of exclusive jurisdiction over property it acquires by filing a notice with the proper State authorities, without which no such exclusive

jurisdiction has been accepted. 40 U.S.C.S. §255 (Law. Co-op. 1994). That portion of the Act of Congress pertinent to this case was adopted in 1940.

What is now the mainland portion of the NASA facility, which is the subject of this lawsuit, was acquired by the United States Navy in four separate parcels of land. Incidentally, not among the four parcels is an actual island, an Eastern Shore of Virginia barrier island, also named Wallops Island, located east of the NASA mainland facility. Confusingly, the NASA mainland facility has the address, Wallops Island, Virginia. Rocket launching pads and the U. S. Navy AEGIS Combat Training System are presently located on the offshore island, which is connected to the Eastern Shore well south of the NASA mainland facility by a causeway and bridge.

The first of the four mainland parcels, containing 550.70 acres, was acquired in 1942 by condemnation "for the purpose of establishing an outlying landing field for the Fifth Naval District. . . ." Acting Secretary of the Navy, James Forestal, by letter received on May 6, 1943, by then Virginia Governor Colgate W. Darden, accepted exclusive jurisdiction on behalf of the United States.

The second parcel, containing 723 acres adjacent to the first parcel, was acquired by condemnation in 1942 "for the purpose of the use of the United States in connection with the establishment of an Outlying Flying Field. . . ." Acceptance of exclusive jurisdiction by Secretary Forestal was again accomplished by letter to Governor Darden received the same date, May 6, 1943.

The third parcel, containing 91.70 acres adjacent to the second parcel, was acquired by condemnation in 1944 "for use in the construction of a Naval Ordinance [sic] Aviation Test Station to be used in connection with the Naval Auxiliary Air Station. . . ." Acting Secretary of the Navy, Dan A. Kimball, by letter received five years later on

September 1, 1949, by then Virginia Governor William M. Tuck, accepted exclusive jurisdiction on behalf of the United States.

The fourth parcel, containing 879.83 acres adjacent to parcels two and three, was acquired by condemnation in 1952, "for the expansion of the United States Naval Auxiliary Air Station and Naval Aviation Ordinance [sic] Test Station. . . ." There has never been any notice of acceptance of exclusive jurisdiction on behalf of the United States filed with the Governor or in any other manner prescribed by the laws of the Commonwealth.

The question thus is narrowed further to a determination whether the exclusive jurisdiction of the United States in the three parcels reverted to the Commonwealth of Virginia for failure of the Navy to use and occupy the property for Naval purposes.

The language in the Virginia Act of the cession of jurisdiction is similar to language, in real property law, of the possibility of reverter and not similar to the language of a right of entry for condition broken. In the former the reverter in real property law is "automatic."

According to NASA history, the Secretary of the Navy transferred the Naval Air Station to NASA in 1959. At a formal ceremony the Navy Base Commander deactivated the facility, lowered its American flag, and a flag belonging to NASA was raised. All Navy personnel departed. That the entire four parcels were transferred, including both the Air Station and the Ordinance [sic] Test Station, is confirmed by a very significant letter from the Navy to NASA in 1961 describing the total acreage at 2,230 acres (it was most likely 2,245.23 acres), and valuing all property, improvements, utilities and 296 buildings at over $24,000,000.

Twenty-six years later, in 1987, NASA as host and the Navy through its Naval Sea Systems Command as tenant,

entered an agreement to permit Wallops Island to be used by NAVSEA to develop its AEGIS Combat Systems Center. It is clear from the agreement that it applies to the offshore Wallops Island. It is unclear whether it applies to the mainland NASA facility. The Navy began to use and occupy a substantial portion of the Island. From the agreement alone it would be an assumption at best that the Navy began to use and occupy the mainland NASA facility under examination in this case. Furthermore, there is no evidence that the Navy had used or been in substantial occupation or even partial occupation of the mainland facility for 26 years previous to the agreement. The Navy's AEGIS Commander at Wallops indicated by letter of April 8, 1988, that its personnel were residing at the NASA Wallops Flight Facility within a Navy compound. But the letter reflects that there was uncertainty regarding the nature of United States jurisdiction, and that the matter needed to be cleared up. In a letter of May 18, 1988, from Navy Legal Counsel to NASA Legal Counsel it is indicated that the residential compound for AEGIS was located on the acreage at the NASA facility for which no acceptance of jurisdiction document was ever located. And again, uncertainty over jurisdiction continues to be reflected in the letter. By letter of July 26, 1988, from NASA Legal Counsel to Navy Legal Counsel it is confirmed that the fourth parcel is the one upon which AEGIS residential housing is located. In a memorandum of February 16, 1990, to the Virginia Commissioner of Labor and Industry it is stated that in March of 1984 the Navy obtained a use permit from NASA for 60 acres on parcel four. It is interesting to note that in the memorandum attached to that letter NASA counsel observes that because Navy personnel have arrived and the tract is again being used and occupied by the Navy "then there might be a tenuous argument that exclusive jurisdiction would be regained." Then the observation follows that "without the letter of acceptance or some deed for the fourth

parcel we cannot assume exclusive jurisdiction was initially given."

Then, significantly, in a letter of August 9, 1989, from Frank Moore of NASA to the Virginia Department of Labor and Industry it is concluded that the mainland NASA facility is not subject to exclusive Federal jurisdiction. Thus, we have the NASA conclusion at that time, whether or not its opinions are significant.

Regarding recent use by the Navy of parcels one, two and three, an investigation conducted for the Virginia Department of Labor and Industry in 1990 found that the Navy periodically uses the airfield for unscheduled landing of aircraft and for refueling during training from a Maryland Navy Base. The airfield is available for emergency landing. However, there are no Navy planes stored at Wallops, nor are there Navy personnel other than AEGIS personnel on parcel four.

Nevertheless, when confronted with the issue of whether to enforce Virginia's Right-to-Work Laws at the NASA facility, the Department of Labor and Industry concluded that there continued to be exclusive Federal jurisdiction over the whole NASA facility. The Commissioner, Carol Amato, declined to intervene by letter to NASA in May of 1990. Frank Moore of NASA, in a clear and concise letter of June 25, 1990, to Carol Amato, noted his exception.

By 1994 General Counsel for NASA had apparently concluded that there very well may be exclusive Federal jurisdiction at the NASA flight facility. The Attorney General of Virginia, in a letter of September 16, 1994, to NASA General Counsel states the opinion of the Attorney General that the mainland parcels at the NASA facility are not subject to exclusive Federal jurisdiction.

This Court's conclusion regarding the material facts is that it is clear that there never has been exclusive Federal

jurisdiction in the Federal Government on parcel four. And as of 1961 the U. S. Navy transferred parcels one, two and three, over which the Federal Government had exclusive jurisdiction, to NASA and ceased to use and occupy the three parcels for Naval purposes. That condition continued for many years. Therefore, concurrent jurisdiction reverted to the Commonwealth of Virginia. There is no law that provides that exclusive Federal jurisdiction could spring up again at the much later time when the Navy again was permitted by NASA to use some of its property for some Naval purposes.

The matter of governmental jurisdiction over lands acquired by the United States is statutory. *Waltrip v. Commonwealth*, 189 Va. 365, 53 S.E. 2d 14 (1949) and *United States v. Johnson*, 994 F. 2d 980 (2d Cir. 1993). The basis for determining jurisdiction used by the Virginia Department of Labor and Industry is not appropriate. There is no law indicating that jurisdiction is determined by the way in which a Federal facility is operated or presents itself in terms of jurisdiction, nor by the way in which a facility is perceived and treated by others in that regard. Only cession and acceptance in the formal manner prescribed by the cited statutes will confer exclusive jurisdiction. Furthermore, exclusive jurisdiction may be qualified or conditional. *Pratt v. Kelly*, 585 F.2d 692, 696 (1978); *S.R.A., Inc. v. Minnesota*, 327 U.S. 558, 90 L. Ed 851 (1945). If the conditions as stated come to pass, as in this case, the exclusive nature of jurisdiction can revert if that is what is provided in the cession of jurisdiction.

On the central factual issue in this case, whether the property ceased to be used and occupied by the Navy, the defendants argue that *Johnson*, 994 F. 2d at 986, is controlling in their favor. Defendants' reliance on that case is mistaken. It is clear from that case that the interpretation regarding use and occupation must be broad and inclusive, not strict, allowing for evolution of the Navy's needs. But in

the case at bar there is not a question of the function of the ceded property evolving over time, but whether it ceased altogether. In the *Johnson* case the Navy continued to occupy the property, though it had ceased to use the property for shipbuilding and traditional Navy yard purposes as originally envisioned. Here, the entire property, all three parcels that were ceded exclusively to the Navy, ceased to be either used or occupied by the Navy for many years. The property was transferred to NASA. The Navy left completely and at that time permanently causing jurisdiction to revert to the Commonwealth. It is not credible to argue the "evolution" concept of the *Johnson* case on the facts here. And there is no re-creation concept known to the law of jurisdiction, which is given or taken by executive action based on legislative authority. Certainly as title by adverse possession of land does not apply against governments, neither does adverse jurisdiction.

September 25, 1997

/s/ Glen A. Tyler
GLEN A. TYLER, JUDGE

APPENDIX C

[ORIGINAL]

VIRGINIA:

IN THE CIRCUIT COURT
OF ACCOMACK COUNTY

Case Number 95-CL-010

FREDERICK A. PUSEY,
Plaintiff,

v.

H & H CONSOLIDATED, INC.,
IAM LOCAL LODGE 2552,
and IAM DISTRICT LODGE 74,
Defendants.

ORDER

This case came to be heard on the 2lst day of August, 1997 on cross-motions for summary judgment. The central issue to the parties' motions is whether the Federal government has "exclusive" jurisdiction over NASA's Wallops Flight Facility.

Upon consideration of the stipulated facts, arguments of counsel, the pleadings filed herein, and the reasons stated in the Court's opinion of September 25, 1997, the Court finds that:

(1) any "exclusive" jurisdiction ceded to the Federal government over lands presently included within the NASA Wallops Flight Facility, reverted to the

Commonwealth in 1961 , when those lands ceased to be "used and occupied for naval purposes;"

and

(2) the Federal government has "concurrent" jurisdiction with the Commonwealth over the lands comprising the NASA Wallops Flight Facility.

Accordingly, it is hereby

ORDERED that the Defendants' Motion For Summary Judgment is DENIED and the Plaintiff's Motion For Partial Summary Judgment as to the "jurisdictional status" of the NASA Wallops Flight Facility is GRANTED.

The Clerk is directed to send a copy of this order to counsel of record, who shall file such objections hereto as deemed advisable within ten days of their receipt of a copy of this order. Endorsement of counsel is dispensed with pursuant to Supreme Court Rule 1:13.

ENTERED this 2nd day of February, 1998.

/s/ Glen A. Tyler,
GLEN A. TYLER, JUDGE
Circuit Court for Accomack County

I ASKED FOR THIS:

/s/ Robert F. Gore
ROBERT F. GORE
% National Right to Work Legal Defense Foundation, Inc.
8001 Braddock Road, Suite 600
Springfield, Virginia 22151
(703) 321-8510

Attorney for the Plaintiff

APPENDIX D

VIRGINIA: [BK 0016 PG 00228]

IN THE CIRCUIT COURT
OF ACCOMACK COUNTY

At Law No.: 95CL010

FREDERICK A. PUSEY,
Plaintiff,

v.

H & H CONSOLIDATED, INC.,

AND

LOCAL LODGE 2552,
INTERNATIONAL ASSOCIATION OF MACHINISTS
& AEROSPACE WORKERS,

AND

DISTRICT LODGE 74, INTERNATIONAL
ASSOCIATION OF MACHINISTS
& AEROSPACE WORKERS,
Defendants.

ORDER

THIS 22nd day of July, 1999 came the Plaintiff, Frederick A. Pusey, by his counsel, Ayres & Hartnett, P.C. and the Defendant, H & H Consolidated, Inc., by its counsel, McGuire, Woods, Battle and Boothe and the Defendants, Local Lodge 2552, International Association of Machinists & Aerospace Workers and District Lodge 74, International Association of Machinists & Aerospace Workers, by their counsel Vergara & Associates upon the Plaintiff's renewed Motion for Partial Summary Judgment; upon the Defendant

Union's Motion for Summary Judgment and that in opposition to the Plaintiff's Motion; upon the opening brief of the Plaintiff in support of his Motion for Partial Summary Judgment; upon the Union's brief in response thereto and in support of the Union's Motion for Summary Judgment; upon the Plaintiff's brief responding to the Union; upon the reply brief of the Union; and upon the Motions and supporting briefs of H & H Consolidated, Inc. concurring with the Defendant, Unions.

Whereupon, the Court recognized John C. Scully, Esquire in person and on brief and now upon the papers formerly filed and on motion of Daniel Hartnett, Esquire of Ayres & Hartnett, P.C. admits the said John C. Scully, Esquire to appear *pro hac vice* as counsel in this matter on behalf of the Plaintiff.

Additionally, Defendant, Union filed with the Court as exhibits two sets of documents representing responses by NASA to a Freedom of Information Act request and all parties stipulated as to their authenticity, and the exhibits are hereby accepted as exhibits and made a part of the record.

Whereupon, all motions and briefs were fully argued by counsel.

In consideration whereof it is Ordered that the Plaintiff's Motion for Partial Summary Judgment as to liability be and hereby is granted and the Defendants' Motions for Summary Judgment be denied and that the trial of this matter proceed forthwith solely upon the issue of the Plaintiff's damages. To which action of the Court, the Defendants, H & H Consolidated, Inc. and IAM Local Lodge 255 and IAM District Lodge 74, by counsel, objected and excepted for such reasons formerly argued in their briefs and orally before the Court.

And for good cause shown, it is further Ordered that the trial of this matter now set for the 17th and 18th days of

November, 1999 be continued until the 15th and 16th days of December, 1999.

And proceeding further, it is Ordered, after discussion with counsel, that the pre-trial conference in this case be set for 2:30 pm on the 29th day of November, 1999 at which time all outstanding matters shall be brought to the attention of the Court for disposition.

ENTERED this 17 day of November, 1999.

/s/ Glen A. Tyler,
GLEN A. TYLER, JUDGE

We ask for this:

JOHN C. SCULLY, ESQUIRE
NATIONAL RIGHT TO WORK LEGAL
DEFENSE FOUNDATION, INC.
8001 Braddock Road, Suite 600
Springfield, VA 22160
(703) 321-8510

/s/ Daniel Hartnett
DANIEL HARTNETT, ESQUIRE
AYRES & HARTNETT, P.C
Post Office Box 216
Accomac, VA 23301
(757)787-1341

Counsel for the Plaintiff

Seen and Objections Noted:

/s/ Thomas Lucas
RUTHIE LITVIN, ESQUIRE
THOMAS LUCAS, ESQUIRE
MCGUIRE, WOODS, BATTLE & BOOTHE
9000 World Trade Center
101 West Main Street
Norfolk,VA 23510

Counsel for the Defendant, H & H Inc.

/s/ James J. Vergara, Jr.
JAMES J. VERGARA, JR., ESQUIRE
VERGARA & ASSOCIATES
100 Main Street Plaza
Hopewell, VA 23860
Counsel for the Defendant, Unions

APPENDIX E

VIRGINIA:

IN THE SUPREME COURT OF VIRGINIA
HELD AT THE SUPREME COURT BUILDING
IN THE CITY OF RICHMOND on
Friday the 3rd day of November, 2000.

Record No. 001048
Circuit Court No. 95CL010

LOCAL LODGE 2552, *etc., et al.*,
Appellants,

against

Frederick A. Pusey,
Appellee.

Record No. 001081
Circuit Court No. 95CL010

H & H Consolidated, Inc.,
Appellant,

against

Frederick A. Pusey,
Appellee.

Upon a Petition for Rehearing

On consideration of the petition of the appellants to set aside the judgments rendered herein on the 13th day of September, 2000 and grant a rehearing thereof, the prayer of the said petition is denied.

A Copy,
Teste:
/s/ David B. Beach
Clerk

APPENDIX F

VIRGINIA:

IN THE CIRCUIT COURT OF ACCOMACK COUNTY

AT LAW No.: 95CL010

Frederick A. Pusey

Plaintiff,

v.

H & H CONSOLIDATED, INC.,

AND

LOCAL LODGE 2552, INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS,

AND

DISTRICT LODGE 74, INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS,

Defendants.

ORDER

THIS DAY CAME the Plaintiff, Frederick A. Pusey, by his counsel, Ayres & Hartnett, P.C. and John C. Scully, Esquire and the Defendant, H & H Consolidated, Inc., by its counsel, McGuire, Woods Battle and Boothe and the Defendants, Local Lodge 2552, International Association of Machinists & Aerospace Workers and District Lodge 74, International Association of Machinists & Aerospace Workers, by their counsel, Vergara & Associates.

Thereupon came a jury to-wit:

> Vivian Daisey, Rodman Tarr, Judith Redifer, Joseph Evans, Robert Joynes, Linda Mears, Carl Ayres & Joyce Milliner,

who, after proper examination, were duly sworn to well and truly try the issues joined between the Plaintiff and the Defendants. One of foregoing being an alternate juror to be disclosed and discharged immediately prior to the matter being submitted to the jury for its deliberation and consideration.

Whereupon, the Court proceeded to hear evidence on behalf of the Plaintiff; at the conclusion of which both counsel for the Defendants moved the Court to strike the Plaintiff's evidence in whole or in part for reasons stated in the record, which motions, after being considered by the Court, were denied, to which action of the Court, both the Defendants, by counsel, objected and excepted.

And proceeding further, the Court heard evidence on behalf of the Defendant, H & H Consolidated; at the conclusion of which the Court proceeded to hear evidence on behalf of the Local Lodge 2552, International Association of Machinists & Aerospace Workers and District Lodge 74, International Association of Machinists & Aerospace Workers.

At the conclusion of all the evidence, both Defendants, by counsel, renewed their motions to strike part or all of the evidence for reasons stated in the record, which motions, after consideration, were likewise denied by the Court; to which actions of the Court the Defendants, by counsel, objected and excepted.

Whereupon, the Court, notwithstanding the objections and exceptions formerly made herein of all the Defendants, by counsel, instructed the jury solely as to whether the Plaintiff

was entitled to damages and the amount thereof and the matter was fully argued by all counsel. At the conclusion of all arguments by counsel, the alternate juror designated by the Court as Rodman Tarr was duly discharged from further service and the remaining seven jurors were retired to commence their deliberation.

And proceeding further in the absence of the jury, the Court heard evidence on behalf of the Defendants H & H Consolidated, in support of its Cross-claim formerly filed against the Defendants, Local Lodge 2552, International Association of Machinists & Aerospace Workers and District Lodge 74, International Association of Machinists & Aerospace Workers. At the conclusion of such evidence, the Cross-claim was fully argued by counsel for H & H Consolidated and counsel for the Local Lodge 2552, International Association of Machinists & Aerospace Workers and District Lodge 74, International Association of Machinists & Aerospace Workers.

In consideration whereof, the Court advanced a briefing schedule and deferred further ruling on the matter until such time as the briefs have been submitted and considered by the Court.

Whereupon, the jury, having completed its deliberations, returned in open Court and rendered the following verdict:

We, the jury, on the issue joined, find in favor of the plaintiff against the defendants and assess his damages at $135,000.00.

/s/ Carl A. Ayres
CARL A. AYRES
Foreman/Forewoman

December 16, 1999

There being no motion to poll the members of the jury as to their verdict, the verdict was accepted by the Court and the jury discharged.

Whereupon, counsel for both Defendants moved the Court to set aside the verdict and enter judgment in favor of the Defendants or, in the alternative, grant the Defendants a new trial for those reasons stated with particularity in the record and was argued by counsel.

In consideration whereof the Court denied the motions and entered judgment in favor of the Plaintiff in the amount of $135,000.00 with interest as provided by law from the 16th day of December 1999 together with the costs of this proceeding. To which actions of the Court, the Defendants, by counsel, objected and excepted for reasons stated in the record.

While entering final judgment in favor of the Plaintiff as aforesaid, the Court reserves and continues the matter of the Cross-claim between the Defendants herein for further consideration.

ENTERED this 10th day February 2000.

/s/ Glen A. Tyler
JUDGE

We ask for this:

John C. Scully, Esquire
National Right To Work Legal
Defense Foundation, Inc.
8001 Braddock Road, Suite 600
Springfield VA 22160
(703)321-8510

/s/ Daniel Hartnett
DANIEL HARTNETT, ESQUIRE
AYRES & HARTNETT, P.C.
Post Office Box 216
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(757) 787-1341
Counsel for the Plaintiff

Seen and Objected to for those
reasons stated in the record:

/s/ Thomas Lucas
THOMAS LUCAS, ESQUIRE
MCGUIRE, WOODS, BATTLE &
BOOTHE
9000 World Trade Center
101 West Main Street
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Counsel for the Defendant,
H & H Inc.

/s/ James J. Vergara, Jr.
JAMES J. VERGARA, JR., ESQUIRE
Vergara & Associates
100 Main Street Plaza
Hopewell, VA 23860
Counsel for the Defendant, Unions

A copy teste Samuel H. Cooper, Jr.,
Clerk

By: /s/ *Coretta S. Travis*, DY